

AMENDED IN SENATE APRIL 13, 2010

AMENDED IN SENATE MARCH 24, 2010

SENATE BILL

No. 1205

Introduced by Senator Corbett
(Coauthors: Senators DeSaulnier and Hancock)

February 18, 2010

An act to add and repeal Title 7.26 (commencing with Section 66720) of the Government Code, relating to disaster recovery.

LEGISLATIVE COUNSEL'S DIGEST

SB 1205, as amended, Corbett. The San Francisco Bay Area Disaster Recovery Authority Act.

Existing law authorizes 2 or more public agencies, by agreement, to jointly exercise common powers. Existing law also establishes the San Francisco Bay Restoration Authority to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitats in the San Francisco Bay.

This bill would establish the San Francisco Bay Area Disaster Recovery Authority to create a long-term regional recovery plan, to be implemented before and after an earthquake or other disaster occurs in the bay area, by cooperating with various stakeholders in the bay area, including, but not limited to, the cities, counties, special districts, schools, emergency operators, hospitals, members of the public, private businesses, and nongovernmental organizations.

The bill would impose specific duties on the Association of Bay Area Governments, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Title 7.26 (commencing with Section 66720) is
 2 added to the Government Code, to read:

3
 4 TITLE 7.26. SAN FRANCISCO BAY AREA DISASTER
 5 RECOVERY AUTHORITY

6
 7 CHAPTER 1. FINDINGS AND DECLARATIONS

8
 9 66720. This title shall be known and may be cited as the Bay
 10 Area ~~Post~~ Disaster Recovery Authority.

11 66721. The Legislature hereby finds and declares all of the
 12 following:

13 (a) The San Francisco Bay area will experience a major
 14 manmade or natural disaster such as an earthquake in its future.

15 (b) Disasters not properly managed and planned for can easily
 16 escalate into catastrophies that will have major lasting
 17 consequences on the region.

18 (c) The nine counties surrounding the San Francisco Bay
 19 constitute a region of vital importance to the national economy
 20 and future business innovation. The bay area leads the nation in
 21 innovation, research, and new technology.

22 (d) The bay area is crisscrossed by many active faults. Several
 23 of these faults, including the San Andreas and Hayward faults, are
 24 capable of causing a major disaster in the region. The United States
 25 Geological Survey predicts that there is a 67 percent chance that
 26 a major earthquake will strike the bay area in the next 30 years.
 27 The Hayward fault, which runs through the dense urban cities of
 28 Fremont, Oakland, and Berkeley, experiences a major earthquake
 29 approximately every 140 years. The last earthquake on this fault
 30 was in 1868, making the Hayward fault the most dangerous in the
 31 bay area today.

32 (e) While the bay area has appropriately focused on risk
 33 mitigation strategies and emergency response preparation, there

1 has been little attention given to the lengthy post-90 day, long-term
2 recovery period that will follow a major disaster such as an
3 earthquake. This is the period that will make or break the region's
4 economic future.

5 (f) The bay area is making great strides to reduce the impacts
6 of a major earthquake, but the scale of the problem is huge and
7 critical components of the system are still vulnerable. A great
8 amount of work still needs to be done to prepare the region.
9 Transportation, water, and housing are key systems that must be
10 robust in order to facilitate a speedy recovery for the region.

11 (g) Recent disasters have repeatedly shown that the weeks and
12 months following a disaster require that all city and county
13 departments, special jurisdictions, and the state and federal
14 government work together toward disaster recovery. Similarly,
15 while hazard mitigation is essential to minimize the damage of
16 disasters to communities, having a comprehensive plan for the
17 long-term process of recovery is often overlooked and is the key
18 to preventing disasters from becoming catastrophes.

19 (h) Past disasters clearly show the consequences of not preparing
20 for recovery. In 2010, the San Francisco Bay Bridge has still not
21 been replaced despite the known hazard since the 1989 Loma Prieta
22 earthquake, and the City of Atascadero is just beginning to replace
23 its city hall that was damaged in the 2003 San Simeon earthquake
24 because of difficulty it has faced with the Federal Emergency
25 Management Agency process. New Orleans is still struggling to
26 rebuild its communities more than five years after Hurricane
27 Katrina. In Kobe, Japan, where a massive earthquake devastated
28 the region in 1995, thousands of people still live in temporary
29 housing nearly 15 years after the earthquake.

30 (i) Disasters such as earthquakes will affect the entire region,
31 not just individual cities and counties. The regional nature of an
32 earthquake demands a regional long-term recovery strategy, but
33 few models exist from other regions.

34 (j) With 101 cities, nine counties, and more than 400 special
35 districts, the bay area is poorly structured to undertake the
36 regional-scale challenge of the long-term recovery phase. However,
37 with advance planning and organization, the bay area can be
38 prepared for long-term recovery. This would entail having an
39 understanding of the issues that will confront the region, the goals
40 pursued, and the decisionmaking protocols that it will follow.

1 (k) When the San Francisco Bay area experiences a major
2 disaster such as an earthquake in the future, government agencies
3 will immediately activate emergency response plans and scramble
4 to restore order, alleviate human suffering, and protect property.
5 In the days after a disaster, short-term recovery plans will be
6 implemented to set up shelter locations, remove debris, and tag
7 buildings. But what happens later, in the weeks, months, and years
8 after immediate life and safety needs have been addressed, will
9 determine whether the region recovers and persists as a vibrant
10 community and driver of the nation's prosperity, or whether the
11 disaster escalates into a catastrophe and the region suffers long-term
12 depopulation with businesses and residents permanently relocating
13 to more stable communities.

14 (l) A major earthquake on the Hayward fault, for example, is
15 predicted to leave 156,000 housing units uninhabitable and 356,600
16 people displaced. In contrast to Hurricane Katrina, where 40
17 percent of homeowners were insured, less than 10 percent of bay
18 area homeowners have earthquake insurance. Because of high
19 deductibles, it is anticipated that only 4.4 percent of losses will be
20 covered by insurance. The likelihood that these homeowners will
21 have the resources to rebuild their homes in a timely manner is
22 low and rebuilding will depend on the ability of homeowners to
23 attract private investment to their properties. At a time when rental
24 vacancy rates are already very low and homeowners are struggling
25 to hold on to their properties, there is little incentive or ability for
26 uninsured homeowners to invest in the rebuilding of their
27 properties.

28 (m) Retrofitting homes is an effective method to reducing
29 housing losses in a disaster, but relatively few homes have been
30 retrofitted and programs and funds to encourage more widespread
31 retrofit are scarce. Recovery of the business economy depends on
32 the ability of workers to return to work, and workers without homes
33 are unlikely to be able to do so.

34 (n) A regional long-term recovery plan cannot simply be an
35 operations plan for governments to follow. All stakeholders, from
36 local governments, lifelines operators, schools, private-sector
37 businesses, members of the public, the health and hospital
38 community, and nongovernmental organizations, must reach
39 consensus on the priorities for long-term disaster recovery,
40 including serving vulnerable communities that may have the least

1 access to resources, are more reliant upon government services,
2 and most susceptible to the impacts of delays in government action
3 post disaster.

4 (o) Key functional areas of recovery that must be understood
5 include lifelines, housing replacement, business recovery,
6 government facilities and services, transportation, health and
7 education, vulnerable communities, and land use change.

8 (p) Public-private partnerships are key to this process. Private
9 businesses must be confident that recovery will happen quickly in
10 order to continue to invest in the region. The planning process
11 must address their needs and concerns. The roles of private
12 business in the long-term recovery plan will be identified together
13 with local governments.

14 (q) The Association of Bay Area Governments (ABAG) is a
15 unique regional entity, well suited to lead this effort. ABAG was
16 formed as a Council of Governments by the 101 cities and nine
17 counties of the bay area to address social, environmental, and
18 economic issues that transcend local borders. The mission of
19 ABAG is to facilitate and strengthen cooperation and coordination
20 among local governments.

21 (r) ABAG has a long history of planning for disasters and has
22 been a national leader among planning agencies in developing and
23 continuing an earthquake and hazards planning program. In the
24 past this program has coordinated with all of its member cities and
25 counties, as well as special districts to develop a Federal
26 Emergency Management Agency approved multijurisdiction local
27 hazard mitigation plan with regional mitigation strategies agreed
28 upon by all the participating jurisdictions.

29 (s) The San Francisco Bay area needs to develop regional
30 mechanisms to generate and allocate additional resources to address
31 threats of natural hazards and to secure opportunities for the
32 improvement of the long-term disaster recovery capacity of the
33 San Francisco Bay area, which will promote sustainable
34 redevelopment and create a more disaster-resistant region.

35 (t) It is in the public interest to create the San Francisco Bay
36 Area Disaster Recovery Authority as a regional entity to generate
37 and allocate resources for development of long-term disaster
38 recovery plans, protocols, and mitigation projects for the San
39 Francisco Bay area. The authority will endeavor to provide its
40 members with shared knowledge and familiarity of the issues

1 necessary to tackle critical tasks of prioritizing recovery activities,
 2 sharing resources, and interfacing with a vast array of local entities
 3 and stakeholders as well as state and federal agencies. The authority
 4 will sponsor and review local actions to improve preparation for
 5 recovery, including guidelines for member cities, counties, and
 6 agencies to align finance department preparation, building
 7 ordinances, emergency housing strategies, mutual aid, and a variety
 8 of additional tasks, along with information gathering, plan
 9 consolidation, application for resources, and policy discussion.

10

11 CHAPTER 2. DEFINITIONS

12

13 66722. Unless the context otherwise requires, the following
 14 definitions govern the construction of this title:

15 (a) “ABAG” means the Association of Bay Area Governments.

16 (b) “Administrative committee” means the Bay Area Disaster
 17 Recovery Administrative Committee convened by the governing
 18 board of the San Francisco Bay Area Disaster Recovery Authority
 19 pursuant to Section 66724.5.

20 (c) “Authority” means the San Francisco Bay Area Disaster
 21 Recovery Authority established as a regional entity pursuant to
 22 Section 66723.

23 (d) “Board” means the governing board of the San Francisco
 24 Bay Area Disaster Recovery Authority.

25 ~~(e) “Elected official” means an elected member of a city council~~
 26 ~~or an elected member of a county board of supervisors.~~

27 ~~(f)~~

28 (e) “Member” means a person appointed as a member of the
 29 governing board of the San Francisco Bay Area Disaster Recovery
 30 Authority.

31 ~~(g)~~

32 (f) “San Francisco Bay area” or “bay area” means the area that
 33 includes the Counties of Alameda, Contra Costa, Marin, Napa,
 34 San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

CHAPTER 3. SAN FRANCISCO ~~BAY~~ BAY AREA DISASTER
RECOVERY AUTHORITY

66723. (a) The San Francisco Bay Area Disaster Recovery Authority is hereby established as a regional entity with jurisdiction extending throughout the San Francisco Bay area.

(b) The authority shall create a long-term regional recovery plan, to be implemented before and after an earthquake or other disaster occurs in the bay area, by cooperating with various stakeholders in the bay area, including, but not limited to, the cities, counties, special districts, school districts, emergency operators, hospitals, members of the public, private business, and nongovernmental organizations.

(c) The jurisdiction of the authority is not subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5).

66723.5. It is the intent of the Legislature that the authority complement existing efforts by cities, counties, districts, and other local, regional, and state entities, related to addressing the goals described in this title.

CHAPTER 4. GOVERNING BODY

66724. (a) The authority shall be governed by a board composed of voting members, as follows:

- (1) All members of the ABAG Regional Planning Committee.
- (2) ABAG shall appoint one member representing each of the following:
 - (A) Not less than four members representing lifeline infrastructure districts such as water and wastewater, power and energy, telecommunications, and transit.
 - (B) A school district or county board of education.
 - (C) A nonprofit service delivery agency.
 - (D) A member of the Bay Area Super-Urban Area Security Initiative.

(E) Not less than four members representing private sector business, economics, and planning organizations.

(b) Each member shall serve at the pleasure of the appointing authority ABAG.

1 (c) A vacancy shall be filled by ~~the appointing agency~~ ABAG
2 within 90 days from the date on which the vacancy occurs.

3 66724.1. The members of the board are subject to the Political
4 Reform Act of 1974 (Title 9 (commencing with Section 81000)).

5 66724.2. Each member shall exercise his or her independent
6 judgment on behalf of the interests of the residents, the property
7 owners, and the public as a whole in furthering the intent and
8 purposes of this title.

9 66724.3. The board shall elect from its own members a chair
10 and a vice chair who shall preside in the absence of the chair.

11 66724.4. (a) The time and place of the first meeting of the
12 board shall be at a time and place within the San Francisco Bay
13 area fixed by the chair of the board.

14 (b) After the first meeting described in subdivision (a), the board
15 shall hold meetings at times and places determined by the board.

16 (c) Meetings of the board are subject to the Ralph M. Brown
17 Act (Chapter 9 (commencing with Section 54950) of Part 1 of
18 Division 2 of Title 5).

19 66724.5. (a) Not later than six months after the date of the
20 board's first meeting described in subdivision (a) of Section
21 66723.4, the board shall convene a Bay Area Disaster Recovery
22 Administrative Committee to assist and advise the board in carrying
23 out the functions of the board. The administrative committee shall
24 meet on a regular basis.

25 (b) The membership of the administrative committee shall be
26 determined by the authority based upon criteria that provide a
27 broad representation of community and agency interests and
28 geographical diversity within the authority's jurisdiction over the
29 long-term disaster recovery in the San Francisco Bay area. The
30 membership of the administrative committee shall be appointed
31 by the authority.

32 66724.6. (a) The board is the legislative body of the authority
33 and, consistent with this title, shall establish policies for the
34 operation of the authority.

35 (b) The board may act either by ordinance or resolution in order
36 to regulate the authority and to implement this title.

37 (c) A majority of the voting members of the board shall
38 constitute a quorum for the purpose of transacting any business of
39 the authority. A recorded majority vote of the total voting
40 membership of the board is required on each action.

CHAPTER 5. POWERS AND DUTIES

Article 1. General Provisions

66725. The authority may do all of the following:

(a) Apply for and receive grants from federal and state agencies.

(b) Solicit and accept gifts, fees, grants, and allocations from public and private entities.

(c) Receive and manage a dedicated revenue source.

(d) Deposit or invest moneys of the authority in banks or financial institutions in the state in accordance with state law.

(e) Sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(f) Engage counsel and other professional services.

(g) Enter into and perform all necessary contracts.

(h) Enter into joint powers agreements pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1).

(i) Use interim or temporary staff provided by appropriate state agencies or the Association of Bay Area Governments. A person who performs duties as interim or temporary staff shall not be considered an employee of the authority.

66725.1. The authority shall not acquire or own real property.

66725.2. All records prepared, owned, used, or retained by the authority are public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

Article 2. Grant Program

66725.5. (a) The authority may raise funds and award grants to public and private entities, including, but not limited to, owners or operators of public and private property within the San Francisco Bay area, for the purposes of maintaining and enhancing the region’s resiliency following a disaster by reducing the potential loss of life, property damage, or environmental degradation, and accelerating economic recovery from those disasters.

(b) In reviewing and assessing projects, the authority shall solicit input from the administrative committee convened pursuant to

1 Section 66724.5. The authority shall give priority to projects that
 2 do either of the following:

3 (1) To the greatest extent possible, address the highest priority
 4 mitigation strategies identified in the most recent multijurisdictional
 5 Local Hazard Mitigation Plan led by ABAG and adopted by the
 6 Federal Emergency Management Agency.

7 (2) Address additional needs identified in the recovery plan.

8 (c) Grants awarded pursuant to subdivision (a) may be used to
 9 support all phases of planning, construction, monitoring, operation,
 10 and maintenance for projects that are eligible pursuant to
 11 subdivision (b).

12
 13 CHAPTER 6. FINANCIAL PROVISIONS
 14

15 66726. (a) The board shall provide for regular audits of the
 16 authority’s accounts and records and shall maintain accounting
 17 records and shall report accounting transactions in accordance with
 18 generally accepted accounting principles adopted by the
 19 Government Accounting Standards Board of the Financial
 20 Accounting Foundation for both public reporting purposes and for
 21 reporting of activities to the Controller.

22 (b) The board shall provide for annual financial reports. The
 23 board shall make copies of the annual financial reports available
 24 to the public.

25 66726.5. The authority shall be funded through gifts, donations,
 26 grants, state or local bonds, assessments, other appropriate funding
 27 sources, and other types of financial assistance from public and
 28 private sources. *Nothing in this title shall be construed to authorize*
 29 *the authority to incur debt or raise revenue by levying taxes,*
 30 *assessments, or fees.*

31
 32 CHAPTER 7. REPEAL
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34 66727. This title shall remain in effect only until January 1,
 35 2030, and as of that date is repealed, unless a later enacted statute,
 36 that is enacted before January 1, 2030, deletes or extends that date.

37 SEC. 2. No reimbursement is required by this act pursuant to
 38 Section 6 of Article XIII B of the California Constitution because
 39 a local agency or school district has the authority to levy service
 40 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O